
DURHAM TEES VALLEY AIRPORT - SOUTHSIDE DEVELOPMENT AGREEMENT

Responsible Cabinet Member(s) - Councillor John Williams, Leader

Responsible Director(s) – Ada Burns, Chief Executive

Purpose of Report

1. To seek Members approval to action taken by the Chief Executive in response to a request from Peel Airports Limited for an extension of time to enter into a Southside Development Agreement at Durham Tees Valley Airport under the Subscription and Shareholders Agreement.

Information and Analysis

2. A request has been received from Peel Airports Limited (PAL) for an extension of time by which PAL should have used all reasonable endeavours to procure that the Airport company ('DTVA') enters into a Southside Development Agreement under the Subscription and Shareholders Agreement ('SSA').
3. Under the SSA as it presently stands, DTVA has to have entered into a Southside Development Agreement on or before 31st March, 2006 or to have delivered a Southside Councils Agreement with an undertaking to enter into it.
4. PAL has made it clear that it remains committed to the development of the Southside land but that it has not yet been able to ensure that an Agreement will have been entered into by 31st March deadline. An extension of the deadline until 30th September, 2006 has therefore been requested.
5. This will represent a variation to the SSA, which under the terms of the SSA requires the express agreement in writing of a duly authorised officer of each of the parties to the SSA (including therefore each of the local authority shareholders).
6. In the event that an extension of time is not agreed, and if on or before 31st March, 2006 DTVA has not entered into a Development Agreement or delivered a Southside Councils Agreement, together with written confirmation that it is willing to enter into such an Agreement, the SSA provides that the Local Authorities can take management control and direction of the programme for the development of the Southside, subject to reimbursing DTVA's and PAL's costs and expenses incurred in connection with the proposed development, and subject to the proviso that a 'step in' will not be permissible if PAL demonstrates that DTVA's failure to enter into an Agreement or provide a Southside Councils Agreement with an undertaking to enter into that Agreement, was attributable to circumstances falling outside of DTVA's or PAL's control.

7. A referral to arbitration is allowed for in the event of a dispute but it is considered that the request is a reasonable one in the circumstances. The Chief Executive in consultation with the Leader of the Council has agreed to the proposal given that the request was received subsequent to the last meeting of Cabinet and Peel were seeking approval before their initial deadline of 31st March 2006 expired, which clearly was prior to the date of this Cabinet meeting. Members are recommended to endorse the action of the Chief Executive.
8. Authority has also been given to Stockton to sign an Extension Agreement by letter on behalf of the Borough Council. This is suggested by Stockton as being the most efficient means of finalising the matter in the limited timescale available.
9. The matter is urgent because PAL need early confirmation of the agreement of the Borough Council.

Legal Implications

10. This report has been considered by the Borough Solicitor for legal implications in accordance with the Council's approved procedures. There are no issues which the Borough Solicitor considers need to be brought to the specific attention of Members, other than those highlighted in the report.

Section 17 of the Crime and Disorder Act 1998

11. The contents of this report have been considered in the context of the requirements placed on the Council by Section 17 of the Crime and Disorder Act 1998, namely, the duty on the Council to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. It is not considered that the contents of this report have any such effect.

Council Policy Framework

12. The issues contained within this report do not represent change to Council policy or the Council's policy framework

Decision Deadline

13. For the purpose of the 'call-in' procedure this is an urgent matter. PAL need early confirmation of the approval of all parties to the SSA, including the Local Authority shareholders.

Recommendation

14. It is recommended that Members endorse the action of the Chief Executive in agreeing, in consultation with the Leader of the Council, to an extension of time until 30th September, 2006 by which PAL should have used all reasonable endeavours to procure that DTVA enters into a Southside Development Agreement under the Subscription and Shareholders Agreement and that the appropriate officer of Stockton Borough Council be authorised to sign an appropriate agreement to that effect on behalf of Darlington Borough Council.

Reasons

15. The action of the Chief Executive in agreeing a limited relaxation of the originally agreed timetable for PAL to enter into the appropriate agreement is an appropriate course of action to take and the urgent action taken was necessary in view of the original agreement deadline.

Ada Burns
Chief Executive

Background Papers

Request from Peel Airports Ltd via Stockton Borough Council, 14th March, 2006.

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